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May 24, 2005

VIA ELECTRONIC FILING

Marlene H. Dortch, Esquire
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

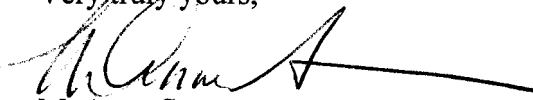
Re: Notification of Ex Parte Communication
MB Docket Nos. 02-277 and 03-130
MM Docket Nos. 01-235, 96-197, 01-317, and 00-244

Dear Ms. Dortch:

This is to advise you, in accordance with Section 1.1206 of the FCC's rules, that on May 23, 2005, Marshall N. Morton, Vice Chairman, Chief Financial Officer and Principal Accounting Officer of Media General, Inc. ("Media General"); George Mahoney, General Counsel and Secretary of Media General; John Feore of this firm; and I met with Chairman Kevin J. Martin and his Legal Advisor on Media Issues, Catherine C. Bohigian, to discuss judicial review proceedings regarding media ownership, potential outcomes, and possible FCC responses. Media General provided the enclosed handout at the meeting.

As required by Section 1.1206(b), as modified by the policies applicable to electronic filings, one electronic copy of this letter is being submitted for each above-referenced docket.

Very truly yours,



M. Anne Swanson

Enclosure

cc w/enclosure (by email):

The Honorable Kevin J. Martin
Catherine C. Bohigian, Esquire

**IN ANY REMAND, REPEAL OF THE NEWSPAPER/BROADCAST
CROSS-OWNERSHIP ("NBCO") RULE WILL SERVE THE PUBLIC
INTEREST AND IS COMPELLED BY THE RECORD DEVELOPED BELOW**

I. MEDIA GENERAL IS ONE OF MANY COMPANIES FACING GROWING COMPETITION FROM "NEW" MEDIA, PARTICULARLY IN ITS NEWSPAPER BUSINESS

A. Newspaper circulation and readership have been steadily declining over the past half century.

1. Between 1940 and 2003, the number of daily newspapers published in the U.S. has declined from 1,878 to 1,456. (*See Newspaper Circulation Volume* at www.naa.org.)
2. Readership has also shown dramatic erosion over the years. The most recently available data show that only 58.3% of all adults read a newspaper each weekday in 1997, compared to 80.8% in 1964. Figures for Sunday newspaper readership have also declined from 75.3% to 66.3% of all adults over the same period. (*See Daily Newspaper Readership Trend* and *Sunday Newspaper Readership Trend* at www.naa.org.)

B. Households not subscribing to video services represent a small minority of U.S. households, and audiences for broadcast programming continue to decline.

1. Some 85.14% of U.S. households subscribed to paid video services in 2004. (*FCC's Eleventh Annual Report on Video Competition*, FCC 05-13, released Feb. 4, 2005, at *Table B-1*.)
2. In the 2004-05 TV season, cable for the first time controlled a larger share of viewers than the over-the-air networks. (J. Berresford, *The Scarcity Rationale for Regulating Traditional Broadcasting: An Idea Whose Time Has Passed*, FCC Media Bureau Staff Research Paper, 2005-2, March 2005 at 21 (citations omitted).)

C. Meanwhile, in addition to cable television and Direct Broadcast Satellite systems, a variety of other non-traditional media entrants and sources of programming and information, such as digital audio radio, low-power FM, Instructional Television Fixed Service, Multipoint Distribution Service, Multipoint Multichannel Distribution Service, and the Internet, are garnering larger and larger audiences. News and information is also being transmitted to Personal Digital Assistants, cellular phones, other radio receivers, and personal computers with WiFi and WiMax connections. (*Id.* at 12-18.)

D. In Media General's experience, convergence (combined ownership of newspapers and television stations) is the only effective way to meet this competition.

II. THE FCC CORRECTLY DECIDED IN JULY 2003 TO REPEAL THE NBCO RULE

A. Repeal of the rule would not harm competition in local advertising markets.

1. Extensive studies submitted to the FCC by Media General and the Newspaper Association of America show no statistically significant difference between advertising prices of cross-owned newspapers and those of other newspapers.

B. Repeal would bring audiences enhanced delivery of local news and information.

1. Media General believes that news belongs to the community, and, as a result, its delivery of news and information content is consumer-driven. Media General's content responds to local needs because that is the only way to build a saleable product. As the FCC's record supporting the July 2003 decision clearly showed, cross-ownership enhances the delivery of news and information and leads to higher levels of non-entertainment programming. (See, e.g., David Pritchard, *Viewpoint Diversity in Cross-Owned Newspaper and Television Stations: A Study of News Coverage of the 2000 Presidential Campaign* (FCC Media Ownership Working Group Report #2), September 2000; Thomas C. Spavins, et al., *The Measurement of Local Television News and Public Affairs Programs* (FCC Media Ownership Working Group Report #7), September 2002; Scott Roberts, et al., *A Comparison of Media Outlets and Owners for Ten Selected Markets* (1960, 1980, 2000), (FCC Media Ownership Working Group Report #1), September 2002.)
2. Localism is an important statutory goal. The Commission has a strong interest in ensuring the delivery of a strong local news product and enhancing the ability of local outlets to compete in both large and small markets.
3. As the Commission found, repeal is necessary to allow Media General and other providers of local news to continue to compete and deliver their high quality news products. Media General today finds itself competing for readers and audience with national purveyors of non-local news (e.g., *USA Today*, CNN) and with more recently emerging powerful television duopolies. Media General expects soon to be competing with combined cable television/broadcast television operators.

C. The rule has not served to preserve or enhance diversity of viewpoint and opinion.

1. Media General's experience demonstrates that common ownership does not diminish diversity. Media General's converged properties have independent news and editorial staffs that develop and deliver separate news and information products. Media General's outlets frequently express varying editorial opinions. Other commenting parties reported following the same approach.
2. The geographic areas that Media General's converged properties serve are frequently different. Consequently, the co-owned properties, as a matter of sound business practice, deliver varying news content and editorial voices to serve the differing demands created by the separate, but overlapping, coverage areas.

III. CONTINUED ENFORCEMENT OF THE NBCO VIOLATES MEDIA GENERAL'S CONSTITUTIONAL RIGHTS

- A. It is time for the United States Supreme Court to review this rule that was adopted 30 years ago
- B. The NBCO rule no longer treats newspaper owners in “essentially the same fashion” as other owners of mass media, and the Equal Protection Clause of the Fifth Amendment consequently requires repeal.
- C. The Supreme Court should jettison the scarcity rationale, which ensures that the NBCO receives a lower level of constitutional scrutiny on review.
 - 1. Technological developments have rendered the doctrine obsolete, as repeated lower court criticism has shown.
 - 2. Once a heightened standard of review is applied, the NBCO rule cannot survive.
- D. Similarly, the Supreme Court should reconsider its ruling in *NCCB* that restrictions on broadcast ownership specifically directed at promoting diversity are content neutral and thus trigger only deferential review under the First Amendment.